

ATTORNEY DOCKET NO. 16112RRUS01U (NORT10-00345)
U.S. SERIAL NO. 10/675,096
PATENT

REMARKS

Claims 1-21 are pending in the application.

Claims 1-21 have been rejected.

Reconsideration of the Claims is respectfully requested.

I. REJECTION UNDER 35 U.S.C. § 103

Claims 1-8, 8-14 and 15-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Detampel, Jr. et al (US 2001/0002927) in view of Susen et al (WO 00/14730). The rejection is respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

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A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142.

The Office Action argues that Detampel discloses each and every element/feature of the independent Claims 1, 8 and 15 with the exception of the following: allowing a second access to continue after the conference call begins based at least partially on a second pass code, wherein the second pass code may or may not be equal to the first pass code. Office Action, pp 2-3.

The Office Action further argues that Susen discloses a method for checking access authorization, and more specifically, "teaches the following: allowing a second access to continue after the conference call (reads on conversation taking place between users of the telephones) begins based at least partially on a second pass code, wherein the second pass code may or may not be equal to the first pass code (see abstract)." Office Action, page 3. Based upon this, the Office Action concludes that it would be obvious to modify Detampel to include this element/feature because it

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would "facilitate verifying the participants are bona-fide participants" after the call is established to deter misuse by unauthorized others as taught by Susen. Office Action, pp 3-4.

As described in Applicant's prior response, Detampel recites a system supporting on-demand teleconferencing. Detampel, Abstract. A subscriber may establish a conference call by dialing into the system and providing his or her passcode. Detampel, Paragraphs 0067-0070. After the proper passcode is provided, the subscriber provides a personal identification number (PIN) to the system. Detampel, Paragraphs 0071-0073. A participant is allowed to join the conference call by providing the same PIN to the system. Detampel, Paragraph 0075.

Detampel describes a system where the participants (second access) may access a conference call by providing a single pass code (the PIN), which is selected by a subscriber (first access) when the subscriber accesses the system. The participant (second access) does not provide a PIN to the system multiple times (or two different pass codes). Thus, Detampel discloses that a participant (second access) enters a PIN to access the conference call, but fails to disclose that the participant (second access) enters the same or a different PIN after the conference call begins in order to continue participating in the conference call.

From the English-language abstract of Susen, it appears that Susen is related to analyzing speech signals of a caller in a two-way voice call between a caller and a recipient. While the abstract discloses that, in one embodiment, the analyzed voice signals may be in the form of a password before the connection is established, and in another embodiment, the caller may be identified by analyzing the voice signals of the caller during the call.

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As will be appreciated, it appears from the English-language abstract that the subject matter of Susen is directed to two-way voice calls - not conference calls. Second, Susen appears to refer or relate to voice/speech recognition. See, English-language version of claims of EP 1 112 567 B1, copy attached ("speech samples are recorded"). More importantly, Applicant's present claims recite that access by the participant (i.e., the second access) is at least partially related to the first passcode. In Susen, it appears that the voice recognition process is applied to the voice signals of the calling subscriber - not the called subscriber (or the participant in a conference call, as recited in Applicant's claims). Thus, Susen is directed to the authorization (or continued authorization) of the calling or initiating subscriber - not the participant joining a conference call. Therefore, Susen appears, at most, to teach verification (or re-verification) of a calling party in a two-way call using voice/speech recognition of the calling party's voice signals - not the continued authorization of a participant (the second access) in a conference call using a second passcode in order to continue/maintain access to the conference call.

Therefore, Applicant respectfully submits that none of the references, either alone or in combination, disclose, teach or suggest all of the elements/features as recited in Applicant's independent Claims 1, 8 and 15.¹

With respect to dependent Claims 2, 9, and 16, since Detampel does not, in fact, disclose that a participant (second access) enters two pass codes: a first pass code to access the conference call

¹ For the same reasons set forth above with respect to independent Claims 1, 8 and 15, the proposed combination of Detampel and Susen fails to disclose, teach or suggest the all the elements/features of the dependent Claims, as well.

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and a second pass code (same or different from the first pass code) to continue access during the conference call, Detampel cannot disclose that the "second pass code does not equal the first pass code" as recited in the claims. As a result, Detampel fails to disclose, teach or suggest this element/feature of dependent Claims 2, 9, and 16.

With respect to dependent Claims 3, 10, and 17, Detampel does not disclose that a second pass code is received from the first access (subscriber) during the conference call. In Detampel, a subscriber (first access) provides the PIN before a conference call is established. Detampel, Paragraphs 0070-0075. Therefore, Detampel fails to disclose, teach or suggest the element/feature of dependent Claims 3, 10, and 17.

Accordingly, the Applicant respectfully requests withdrawal of the § 103(a) rejection of Claims 1-7, 8-14 and 15-21.

II. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

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If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at rmccutcheon@davismunck.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 3/3/2006

Robert D. McCutcheon
Registration No. 38,717

P.O. Drawer 800889
Dallas, Texas 75380
(972) 628-3632 (direct dial)
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: rmccutcheon@davismunck.com